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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,155	12/30/2003	Alan Dry	04224 (3883.00032)	7836

35374 7590 08/13/2004

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EXAMINER

ENGLE, PATRICIA LYNN

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/749,155

Applicant(s)

DRY ET AL.

Examiner

Patricia L Engle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/1/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 19 and 20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on June 25, 2004.
2. Applicant's election with traverse of Invention I (claims 1-18) in the reply filed on June 25, 2004 is acknowledged. The traversal is on the ground(s) that there is not a serious burden on the Examiner and that the product can only be made by the process of the process claims. This is not found persuasive because although the product claim recited process limitations of co-molded, the process limitations are given little patentable weight. The process claims recited specific limitations to injection molding, the product claims do not require injection molding. The product could be cast (which is a molding process). The claims are directed to two different inventions and require different searches.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Objections***

3. Claims 9 and 18 are objected to because of the following informalities: Should "said seal" in line 1, be --said second seal-- (as claims 7 and 16) is directed to the second seal)?  
Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

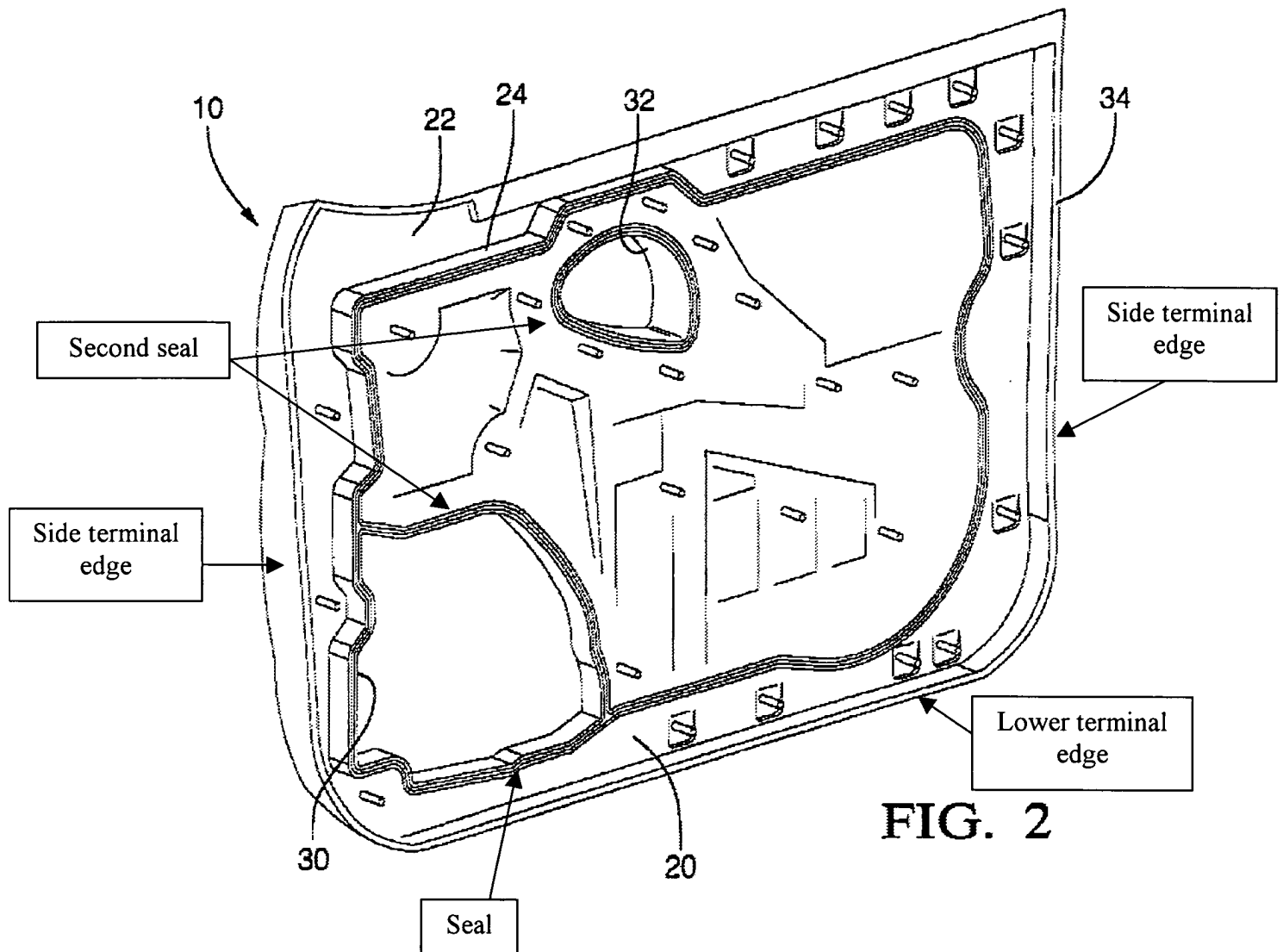
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-18 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Whitehead et al. (US Patent 6,422,640).

Regarding claims 1 and 10, Whitehead et al. disclose a modular door trim panel assembly comprising: a molded substrate (20) having a first side defining an A-side surface (21,34) that is visible from the interior of an automotive vehicle (Fig. 1) and a second side opposite said first side that defines a B-side surface (22) adjacent a vehicle door (Fig. 2), said substrate (20) including a pair of side terminal edges (see illustration below) and a lower terminal edge (see illustration below) extending therebetween; and at least one seal (24) that is co-molded while said substrate is formed and bonded to said B- side of said substrate, said seal extending substantially parallel to said pair of side terminal edges and said lower terminal edge of said substrate and adapted to prevent the entry of moisture between said B-side of said substrate and the vehicle door. MPEP 2113 Product-by-Process Claims states that “If the product in the product-by-process claim is that same as or obvious from a product of the prior art, the claim is unpatentable even though the prior art product was made by a different process.” The modular door trim is anticipated by Whitehead et al. The process by which the modular door trim is made is not a patentable distinction.



Regarding claims 2 and 11, Whitehead et al. disclose a modular door trim panel assembly as set forth in claim 1 wherein said seal (24) extends from said B-side surface (22) to a vehicle door (16) to sealingly contact a predetermined area of the vehicle door (16 and column 3, line 17).

Regarding claims 3 and 12, Whitehead et al. disclose a modular door trim panel assembly as set forth in claim 2 wherein a portion of said pair of side terminal edges and said lower

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terminal edge are contoured (Fig. 5) to receive said seal (24) and facilitate contact between said seal and the vehicle door.

Regarding claims 4 and 13, Whitehead et al. disclose a modular door trim panel assembly as set forth in claim 1 wherein said seal (24) is made of a polymer material (column 3, lines 17-19) suitable for use within an injection mold that maintains a flexible quality when cured. MPEP 2113 Product-by-Process Claims states that "If the product in the product-by-process claim is that same as or obvious from a product of the prior art, the claim is unpatentable even though the prior art product was made by a different process." The seal is anticipated by Whitehead et al. The process by which the seal is made is not a patentable distinction.

Regarding claims 5 and 14, Whitehead et al. disclose a modular door trim panel assembly as set forth in claim 1 wherein said molded substrate (20) further includes at least one aperture (30,32) adapted to receive a door trim panel component (Fig. 1).

Regarding claims 6 and 15, Whitehead et al. disclose a modular door trim panel assembly as set forth in claim 5 further including at least one door trim panel component disposed within said aperture (30,32) and mounted to said molded substrate (20), said door trim panel component having at least one surface visible from the interior of an automotive vehicle (Fig. 1).

Regarding claims 7 and 16, Whitehead et al. disclose a modular door trim panel assembly as set forth in claim 5 further including a second seal (24, see illustration above) that is co-molded while said substrate is formed and bonded to said B-side (22) of said substrate, said seal extending substantially around said aperture (30,32 and column 3, lines 25-27) and adapted to prevent the entry of moisture between said B-side of said substrate and the vehicle door through said aperture.

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Regarding claims 8 and 17, Whitehead et al. disclose a modular door trim panel assembly as set forth in claim 7 wherein said second seal (24) extends from said B-side surface to a vehicle door to sealingly contact a predetermined area of the vehicle door (16) adjacent said aperture (30,32).

Regarding claims 9 and 18, Whitehead et al. disclose a modular door trim panel assembly as set forth in claim 7 wherein said seal is made of a polymer material (column 3, lines 17-19) suitable for use within an injection mold that maintains a flexible quality when cured. MPEP 2113 Product-by-Process Claims states that "If the product in the product-by-process claim is that same as or obvious from a product of the prior art, the claim is unpatentable even though the prior art product was made by a different process." The seal is anticipated by Whitehead et al. The process by which the seal is made is not a patentable distinction.

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art discloses other modular door trim panel assemblies.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L Engle whose telephone number is (703) 306-5777. The examiner can normally be reached on Monday - Friday from 8:00 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Glenn Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patricia L Engle

Examiner

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August 10, 2004